

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

**CRIMINAL MINUTES - INITIAL APPEARANCE, ARRAIGNMENT,
BOND/DETENTION HEARING/PRELIMINARY EXAM**

Case No.: 1:15CR34

Date: 11/20/15

Defendants:

Joshua Berry; custody

Emmanuel Foster; custody

Sarah Berry; custody

Counsel:

Nancy Dickenson; AFPD

Dan Bieger; appt; James Turk, Jr.; appt

Tom Scott, appt; David Freedman; appt

PRESENT:	JUDGE:	Pamela Meade Sargent	TIME IN COURT: 10:18 – 10:46
	Deputy Clerk:	Ella Surber	
	Court Reporter:	Ella Surber, FTR	
	U. S. Attorney:	Zachary Lee	
	USPO:	Jeremy Keller	
	Case Agent:	Stephen Levesque	
	Interpreter:	N/A	

INITIAL APPEARANCE AND BOND HEARING

- ☒ Initial Appearance. Defendant(s) advised of charges, rights and nature of proceedings.
- ☐ Government moves to unseal case. Court grants motion.
- ☒ Defendant requests appointment of counsel. CJA 23 completed; counsel appointed .
- ☐ Bond hearing held. Record proceedings, witnesses, etc
- ☐ Government does not oppose bond.
- ☒ Defendant(s) not eligible for bond because are currently being held on state court charges without bond.
- ☐ Bond set at Amount, type, i.e., secured, unsecured, property, cash, corporate surety.
- ☐ Deft. notified of right to consular notification under the Vienna Convention.

In addition to the standard conditions of release, the following special conditions of release are imposed:

- ☐ The defendant shall avoid contact outside the presence of his/her counsel with any alleged victims or potential witnesses regarding his/her case.
- ☐ The defendant shall report as directed by the probation officer, and shall promptly report any personal status changes to the probation officer: this shall include immediately reporting any contact by law enforcement officers regarding a criminal investigation or any additional criminal charges placed against the defendant; the defendant shall continue to reside at his/her current residence, and shall not change residences without first obtaining permission from the probation officer.
- ☐ The defendant shall abstain from the excessive OR any use of alcohol or any use or possession of any controlled substances unless prescribed by a licensed treating physician for a legitimate medical purpose.
- ☐ The defendant shall not possess a firearm or other dangerous weapon and shall reside in a residence free of such.
- ☐ The defendant shall submit to random drug and or alcohol testing as directed by the probation officer.
- ☐ The defendant shall not travel outside the Western District of Virginia without first obtaining permission from the probation officer.
- ☐ The defendant shall submit to warrantless search and seizure of his/her person and property as directed by the probation officer for the purpose of determining if he/she is in compliance with his/her conditions of pretrial release.
- ☐ The defendant shall actively seek and/or maintain employment.
- ☐ The defendant shall maintain or commence an education program.
- ☐ The defendant shall surrender his/her passport to the Probation Office to be held pending further order of the court; the defendant shall not apply to obtain a passport.
- ☐ The defendant shall not associate with any known users/possessors of illegal controlled substances and shall not be present in any location where illegal controlled substances are being used and/or distributed, unless approved by his/her supervising officer in cooperation with law enforcement officers.

- ☐ The defendant shall be placed on home detention subject to electronic monitoring and all residential absences must be approved in advance by the probation officer.
- ☐ The defendant shall continue in his/her current mental health OR substance abuse OR both counseling/treatment program at his/her own expense.
- ☐ The defendant shall allow the probation officer open communication with any treatment agencies or health care providers for the purpose of monitoring the defendant's compliance with all treatment requirements.
- ☐ Any animals on the premises of the defendant's residence must be restrained in a way so as to not interfere with the probation officer's access to the defendant's residence and to ensure the officer's safety.
- ☐ Defendant advised of penalties and sanctions for failure to appear and/or violating conditions of release.

DETENTION

- ☐ Government moves for detention. (Can be continued for up to 3 days)
- ☐ Government moves for continuance of detention hearing.
- ☐ Defendant(s) moves for continuance of detention hearing. (Can be continued for up to 5 days)
- ☐ Detention hearing continued to KEYBOARD().
- ☐ Detention hearing held. Record proceedings, witnesses, etc
- ☐ Findings of Fact:

PRELIMINARY EXAM (Only if arrested on criminal complaint)

- ☐ Defendant does not contest probable cause.
- ☐ Preliminary exam waived. Waiver form executed by parties.
- ☐ Preliminary Exam held. Record proceedings, witnesses, etc
- ☐ Probable cause found. Order will enter.
- ☐ Probable cause not found. Court orders complaint dismissed. Order will enter.

ARRAIGNMENT

- ☒ Defendant(s) waives reading of Indictment/Information. ☐ Indictment/Information read.
- ☒ Defendant(s) is arraigned and specifically advised of rights (Rule 11 F.R.C.P).

DEFENDANT(S) PLEADS:

DEF. #	GUILTY	NOT GUILTY	NOLO	REMARKS
1		All Counts		
2		All Counts		
3		All Counts		
4				

- ☒ Jury trial set for July 18-29, 2015; set out side speedy trial; defts to file waivers.
- ☒ Pretrial conference set for July 1, 2015 at 10:30 a.m..
- ☐ Trial to be set by Clerk upon arrest of all defendants.
- ☒ Defendant(s) remanded to custody.
- ☐ Defendant(s) released on bond.

Additional Information:

Court advises counsel that a pretrial order will be entered setting deadlines; all counsel is appointed as if this was a death penalty case and a budget will be set; order to be entered allowing discovery to be placed on file at the jail